

**IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

JOHN T. EDWARDS

PLAINTIFF,

VS.

INNOVA SUPPLY, INC.

DEFENDANT.

§
§
§
§
§
§
§
§

CIVIL ACTION NO.: _____

ORIGINAL COMPLAINT

Plaintiff John T. Edwards (“Edwards”) brings this action to recover unpaid overtime wages from Defendant Innova Supply, Inc. (hereinafter referred to as “Employer”).

A. NATURE OF SUIT

1. The Fair Labor Standards Act (FLSA) is designed to eliminate “labor conditions detrimental to the maintenance of the minimum standard of living necessary for health, efficiency and general well-being of workers . . .” 29 U.S.C. § 202(a). To achieve its humanitarian goals, the FLSA sets overtime pay, minimum wage and record keeping requirements for covered employers. 29 U.S.C. §§ 206(a), 207(a) and 211(c).

2. The Employer violated the FLSA when they failed to pay a nonexempt employee at one and one half times her regular rates of pay for hours worked in excess of forty hours per week.

B. JURISDICTION AND VENUE

3. This Court had jurisdiction over the subject matter of this action under 29 U.S.C. § 216(b).

4. Edwards's claims arise under §§ 7(a)(1), 11(c) and 16(b) of the FLSA. 29 U.S.C. §§ 207(a)(1), 211(c) and 216(b). In connection with the acts and course of conduct alleged in this complaint, Edwards engaged in commerce or in the production of goods for commerce. Further, Employer is an "employer" who engaged in commerce or in the production of goods for commerce and is therefore covered by the FLSA.

5. Venue is proper in this district because both Edwards and Employer are residents of this district and a substantial part of the acts and conduct charged herein occurred in this district. Further, Employer is a corporation that may be found in this district.

C. THE PARTIES

6. Edwards is a resident of Houston, Texas. Edwards was an employee of Employer within the meaning of the FLSA within the relevant three-year period.

7. Innova Supply, Inc. is a Texas Corporation with its principal place of business at 2739 Pasadena Blvd., Pasadena, Texas 77502, Harris County, Texas.

8. During the relevant time period, Employer was the "employer" of Edwards within the meaning of the FLSA. Employer's principal place of business is located in the Southern District of Texas, in the Greater Houston area.

9. Employer may be served as follows:

- a. Innova Supply, Inc., a Texas corporation, may be served with process by serving Lawyer's Aid Service, Inc. at 505 West 15th St., Austin, Texas 78701.

D. EDWARDS'S ALLEGATIONS

Employer Failed to Pay Time and One Half for All Overtime Hours

10. Edwards was a full time, non-exempt employee of Employer. Edwards was employed as a store clerk. Edwards was paid a salary with no overtime compensation. In performing his duties, Edwards regularly worked more than 40 hours per week. As a non-exempt employee, Edwards was entitled to be paid at one and one-half his "regular rate" for all hours worked over 40 in a given work week. 29 U.S.C. § 201(a).

11. Employer failed to pay Edwards for all hours worked in excess of forty hours at one and one-half times his regular rate. Employer's failure to pay for hours worked over 40 hours per week is a clear violation of the FLSA.

Employer's Illegal Actions Were and Are Willful Violations of the FLSA

12. The illegal pattern or practice on the part of Employer with respect to overtime compensation was and is in violation of the FLSA. No exemption excuses Employer from paying employees at their overtime rates or for all hours worked; nor has Employer made a good faith effort to comply with the FLSA. Thus, Employer knowingly, wilfully or with reckless disregard carried out their illegal pattern or practice regarding overtime compensation and the payment of wages to Edwards. Further, as set forth below, other prior and current employees were subjected to the same wrongful practice and procedure.

E. CAUSE OF ACTION: FAILURE TO PAY WAGES

13. Edwards incorporates herein by reference all allegations contained in paragraphs 1 through 12.

14. Employer's practice of failing to pay overtime compensation at one and one

half the employee's regular rate for all work in excess of forty (40) hours per week to nonexempt employees was and is in violation of the FLSA. 29 U.S.C. § 207. Accordingly, Edwards is entitled to his overtime pay in an amount that is one and one-half times his regular rate of pay.

15. Additionally, Edwards is entitled to an amount equal to all his unpaid wages as liquidated damages, as well as reasonable attorney's fees and costs of this action as provided by 29 U.S.C. 216(b).

F. PRAYER

WHEREFORE, Edwards respectfully requests this Court to:

- a. Declare that Employer has violated the overtime provisions of the FLSA as to Edwards;
- b. Declare Employer's violations of the FLSA to be willful;
- c. Award Edwards damages for the amount of unpaid overtime compensation subject to proof at trial;
- d. Award Edwards an equal amount as liquidated damages as allowed under the FLSA;
- e. Award Edwards reasonable attorney's fees, costs and expenses of this action as provided by the FLSA; and
- f. Award such other and further relief as may be required by law.

Respectfully submitted,

MONSHAUGEN & VAN HUFF, P.C.

By: /s/ Morgan K. Abels
MORGAN K. ABELS
Texas Bar No. 24094970
Southern District No. 2639623
ANNA C. HANNA
Texas Bar No. 24110531
Southern District No. 3384752
1225 North Loop West, Suite 640
Houston, Texas 77008
Tel. (713) 880-2992
Fax (713) 880-5297
Email: mabels@vanhuff.com
Email: ahanna@vanhuff.com

ATTORNEY FOR PLAINTIFF